



California Regulatory Notice Register

REGISTER 2005, NO. 22-Z

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JUNE 3, 2005

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 5. SUPERINTENDENT OF PUBLIC INSTRUCTION

NOTICE OF PROPOSED RULEMAKING

Child Care and Development Programs— Alternative Payment Programs and Resource and Referral Agencies

The Superintendent of Public Instruction (Superintendent) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education staff, on behalf of the Superintendent, will hold a public hearing beginning at **8:00 a.m. on July 21, 2005**, at 1500 Capitol Avenue, Auditorium, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Superintendent requests that persons desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on July 21, 2005**. The Superintendent will only consider written comments that are received by the Regulations Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the Superintendent's consideration should be directed to:

Debra Strain, Regulations Coordinator
LEGAL DIVISION
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Sections 8212, 8226, and 8261, Education Code.

Reference: Sections 8203, 8212, 8213, 8220, 8226, and 8261, Education Code; Sections 1596.773, 1596.853, 1596.885, and 1596.886, Health and Safety Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Assembly Bill 72 requires Resource and Referral (R & R) programs to notify Alternative Payment Programs (APP) and County Welfare Departments (CWD) within two days of receiving notice from the California Department of Social Services that the license of a facility within its jurisdiction has been placed on temporary suspension, revoked, or that the facility has been placed on probation.

The purpose of these regulations is to facilitate implementation of Assembly Bill 72 by providing clear, consistent procedures for R & R programs, APPs, and CWDs to follow when they receive notification that a facility license has been placed on temporary suspension, revoked, or that the facility has been placed on probation.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Superintendent has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The Superintendent is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or

- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Affect on small businesses: The proposed amendments to the regulations do not affect small businesses because funding will continue to small businesses providing child care and development services.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Superintendent must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Superintendent, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Superintendent invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Cecelia Fisher-Dahms, Consultant
Child Development Division
California Department of Education
1430 N Street, Room 3410
Sacramento, CA 95814
Telephone: (916) 322-4883
E-mail: cfisherd@cde.ca.gov

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Natalie Vice, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the Superintendent may adopt the proposed regulations substantially as described in this notice. If the Superintendent makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the Superintendent adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The Superintendent will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/re/lr/rr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Irene Martinez, Child Development Division, 1430 N Street, 3rd Floor, Sacramento, CA, 95814; telephone, (916) 323-1344; fax, (916) 323-6853. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 5. SUPERINTENDENT OF PUBLIC INSTRUCTION

NOTICE OF PROPOSED RULEMAKING

Child Care and Development Programs—Child Protective Services and At Risk Children

The Superintendent of Public Instruction (Superintendent) proposes to adopt the regulations described

below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

California Department of Education staff, on behalf of the Superintendent, will hold a public hearing beginning at **1:00 p.m. on July 21, 2005**, at 1500 Capitol Avenue, Auditorium, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Superintendent requests that persons desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on July 21, 2005**. The Superintendent will only consider written comments that are received by the Regulations Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the Superintendent's consideration should be directed to:

Debra Strain, Regulations Coordinator
LEGAL DIVISION
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814
E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Sections 8250, 8261 and 8263, Education Code.

Reference: Sections 8208(d), 8212, 8250, 8261, 8263, 8265, and 8269, Education Code; Sections 16500.5 and 16506, Welfare and Institutions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Senate Bill 1104 requires child care and development contractors to change the amount of child care and development services provided to families if the family has children who are recipients of child protective services and who are at risk of abuse, neglect, and exploitation. In addition, child care and development contractors will need to begin collecting family fees if the family has children who are

recipients of protective services or who are at risk of abuse, neglect, or exploitation, unless they are exempt from paying fees for no more than a combined total of up to 12 months based on the referral from the county welfare department, child welfare services worker or a legal, medical, or social services agency or emergency shelter.

The purpose of these regulations is to facilitate implementation of SB 1104 by providing procedures for child care and development contractors to follow for children receiving child protective services and children at risk of abuse, neglect, or exploitation.

FORMAT

The proposed emergency regulations became effective on May 6, 2005. However, a change was subsequently made to the regulations after the effective date. The Superintendent initially used the "underline" and "~~strikeout~~" as a method of identifying the changes made to the emergency regulations. Changes made to the regulations after they became effective are identified by "**bold underline**" and "**~~bold strikeout~~**." The "**bold underline**" language is to be added to the proposed regulations. The "**~~bold strikeout~~**" language is to be deleted from the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Superintendent has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The Superintendent is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations do not effect small businesses because funding will continue to small businesses providing child care and development services.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Superintendent must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Superintendent, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Superintendent invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Marie Murata, Consultant
Child Development Division
California Department of Education
1430 N Street, Room 3411
Sacramento, CA 95814
Telephone: (916) 322-4269
E-mail: mmurata@cde.ca.gov

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Natalie Vice, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the Superintendent may adopt the proposed regulations substan-

tially as described in this notice. If the Superintendent makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the Superintendent adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The Superintendent will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

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<http://www.cde.ca.gov/re/lr/rr/>.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Irene Martinez, Child Development Division, 1430 N Street, 3rd Floor, Sacramento, CA, 95814; telephone, (916) 322-1344; fax, (916) 323-6853. It is recommended that assistance be requested at least two weeks prior to the hearing.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and

Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **July 21, 2005**, at 10:00 a.m. in the County Administration Center, 1600 Pacific Highway, Room 358, San Diego, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **July 21, 2005**, following the Public Meeting in the County Administration Center, 1600 Pacific Highway, Room 358, San Diego, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **July 21, 2005**, following the Public Hearing in the County Administration Center, 1600 Pacific Highway, Room 358, San Diego, California.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

**NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND
HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **July 21, 2005**.

**1. TITLE 8: CONSTRUCTION SAFETY
ORDERS**

Chapter 4, Subchapter 4, Article 3
Section 1518(d)

Protection from Electric Shock

A description of the proposed changes are as follows:

**1. TITLE 8: CONSTRUCTION SAFETY
ORDERS**

Chapter 4, Subchapter 4, Article 3
Section 1518(d)

Protection from Electric Shock

**INFORMATIVE DIGEST OF PROPOSED
ACTION/POLICY STATEMENT OVERVIEW**

This rulemaking proposal is initiated in response to a Division of Occupational Safety and Health (Division) memorandum, dated July 28, 2003, with attached Form 9, Request for New, or Change in Existing Safety Order. The Form 9 describes an accident involving a construction industry employee who was killed (electrocuted) while attempting to demolish a concrete pad with a jackhammer. Unbeknownst to the employee, an energized, 5000-volt electrical conductor (wire) was buried in the ground beneath the pad. Following the accident, the Division determined that California does not have a standard comparable to federal OSHA's standard contained in 29 Code of Federal Regulation (CFR) 1926.416(a)(3), which specifically requires employers to ascertain the presence of exposed or concealed electrical conductors which could pose a threat to the safety of employees working in the area by either direct, or indirect contact via tools, equipment, or machinery used/operated by the employee. This determination is required to be made, and made known to employees, prior to the work being performed.

The Division evaluated existing Title 8 standards, such as but not limited to, Sections 2941 through 2944, and trenching and excavation standards contained in Sections 1539 through 1541, and concluded that California did not have a standard at least as effective as the federal standard contained in 29 CFR 1926.416(a)(3). Initially, the Division requested that proposed amendments be made to Section 2940.1 of the High Voltage Electrical Safety Orders; however due to public comments and further Board staff evaluation, it was determined that amendments should be made to the Construction Safety Orders (CSO) instead. Consequently, it is proposed to amend CSO Section 1518, Protection from Electric Shock. The proposal would require employers to ascertain whether any part of an energized electric power circuit is so located that the performance of the work may bring any person, tool, or machine into physical or electrical contact with the electric power circuit. The proposal

would further require, where such circuits exist, (1) legible markings to communicate the presence and location of energized circuits or (2) warning signs be posted in accordance with Section 3340 of the General Industry Safety Orders. The proposal also requires that employees be advised as to the location of energized circuits, the hazards involved, and the protective measures to be taken in accordance with CSO Section 1509.

An editorial, clarifying amendment is also proposed in Section 1518(c), replacing the permissive term “may” with “shall” in order to ensure that employees are protected from electric shock by either protective devices or physical barricades.

Section 1518. Protection from Electric Shock

Existing Section 1518 contains standards addressing means and methods to protect employees from coming in contact with energized electrical equipment, such as use of personal protective equipment/devices, use of insulating equipment or barricades. An amendment is proposed to add a new subsection (d), which would require the employer to ascertain by inquiry, direct observation or by instruments, whether any part of an energized electric power circuit, exposed or concealed, is so located that the performance of the work may bring any person, tool, or machine into physical or electrical contact with the electric power circuit. This determination is to be made prior to the commencement of any work. Where it has been determined that such energized circuits exist, the employer would be required to provide markings to indicate the presence and location of such circuits or, post warning signs in accordance with Section 3340 of the General Industry Safety Orders (GISO). The employer would also be required to advise the employee of the location of such energized circuits, the hazards involved, and the protective measures to be taken in accordance with CSO Section 1509.

The proposed amendments would have the effect of requiring employers to (1) make the determination as to whether or not there are exposed or concealed energized electric power circuits that, given the location of the work to be performed, pose an electrocution hazard, (2) mark the location of the hazard or post warning signs in accordance with existing requirements contained in GISO Section 3340, and (3) communicate the location of the electrical circuits, the hazards involved, and what protective measures are to be followed by the employee. The proposed amendments are necessary to be at least as effective as federal counterpart standards contained in 29 CFR 1926.416(a)(3), and are consistent with existing requirements contained in GISO Section 3203, Injury Illness and Prevention Program.

It is also proposed to replace the permissive term “may” with “shall” in existing subsection (c). The proposed amendment will clarify to the employer that the employee is required to be protected from electric shock by either protective devices or physical barricades.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Although the proposal now requires construction employers to ascertain whether exposed or concealed energized electric power circuits are located, such that they pose a threat to the health and safety of employees, the proposal does not mandate any one specific method to be used. Employers are provided a no-cost opportunity to comply through consultation with the applicable utility company or via existing documentation revealing the location of such energized conductors.

Construction employers are also required to mark or post warning signs where such circuits exist, and advise employees of the location of such lines, the hazards involved, and the protective measures to be taken. These requirements are consistent with existing CSO and GISO standards specific to hazard warning and employee communication/instruction, and are included in this proposal for clarity purposes and for consistency with federal counterpart requirements contained in 29 CFR 1926.416(a)(3). Consequently, the Board is not aware of any new costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

This proposed standard does not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the

State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than July 15, 2005. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on July 21, 2005, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@hq.dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes

may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REGULATORY ACTION REGARDING PRESCRIBED METHOD FOR FILING OF NOTICES OF APPOINTMENT OF AGENTS AND NOTICES OF TERMINATION OF APPOINTMENT OF AGENTS

FILE NO. RH 04 03 7941

NATURE OF PROCEEDING

Pursuant to California Government Code (CGC) section 11346 *et seq.*, Insurance Commissioner John Garamendi (Commissioner) proposes to commence a rulemaking proceeding to adopt Article 12 of Subchapter 1 of Chapter 5 of Title 10 of the California Code of Regulations (CCR) regarding the Prescribed Method for the Filing of Notices of Appointment of Agents and Notices of Termination of Appointment of Agents with the Department of Insurance ("Department" or "agency", herein). The Commissioner conducts this rulemaking proceeding to gather information and public comment concerning this proposed regulation.

AUTHORITY AND REFERENCE

The Commissioner proposes to adopt Article 12 pursuant to the authority of California Insurance Code (CIC) section 1707. The purpose of this regulation is to implement, interpret, and make specific the provisions of CIC section 1707.

INFORMATIVE DIGEST

PLAIN ENGLISH

The proposal is in plain English except to the extent that technical terms could not be avoided. Any unavoidable technical terms are defined in plain English.

Proposed Section 2194.41, Authority and Purpose

The purpose of this section is to set forth the authority and purpose of the proposed regulation. Specifically, this proposed new section is promulgated pursuant to the authority of CIC section 1707 and its purpose is to establish the prescribed method that all

insurers must use to submit notices of appointment of agents and notices of termination of appointment of agents to the agency.

Proposed Section 2194.42, Prescribed Method of Electronic Filing

The purpose of this subsection is to set forth the required method (electronic) and relevant deadlines for the filing of notices of appointment of agents and notices of termination of appointment of agents. Specifically, this section provides that within six (6) months ("the grace period") of the effective date of the regulation, all insurance companies must submit notices of appointment of agents and notices of termination of appointment of agents in an electronic form for the following licenses: Fire & Casualty, Life Agent, Travel Agent, Disability Only, Part Time Fraternal, Motor Club, Personal Lines, and Home Protections. Further, this section specifies that any paper notices of appointment of agents or notices of termination of appointment of agents received after the six month grace period will be considered null and void.

This section also sets forth the approved entities that carriers may use for the electronic submission into the department's Insurance Producer Licensing Database. Specifically, the regulation states that the National Insurance Producer Registry (NIPR) and its authorized business partners or any other vendors approved by the California Department of Insurance may be used to electronically submit notices of appointment of agents and notices of termination of appointment of agents to the agency.

Finally, this subsection specifies that the agency reserves the right to develop its own direct method of electronic submission.

Proposed Section 2194.43, Prescribed Alternate Methods of Filing

This section prescribes alternate methods of filing, that is, exceptions to the general rule that all notices of appointment of agents and notices of termination of appointment of agents must be filed electronically.

Specifically, this subsection provides that when a producer is "terminated for cause" by an insurer; that an insurer shall submit, in writing, an "Action Notice of Termination of Company Appointment" (Form 447-54T) along with an explanation of the "for cause termination".

This section also specifies a second exception to the electronic filing requirement for companies that annually appoint and terminate, in the aggregate, twenty-five (25) or fewer agents. This section goes on to specify that requests for an exception to the mandatory electronic filing requirement must be submitted, in writing, along with an Action Notice of

Appointment (Form 447-54A) or Action Notice of Termination (Form 447-54T) and with the applicable fees as set forth on the Department's website.

Finally, this section specifies that an exception to the mandatory electronic filing of notices of appointment and notices of termination of appointment will be made for lines of insurance that are not covered by subsection 2194.43.

SUMMARY OF EXISTING LAWS AND REGULATIONS

Existing CIC section 1707 establishes the requirement that a notice of appointment of agent or notice of termination of appointment of agent shall be filed on a form prescribed by the commissioner, within 10 days of the appointment or termination of the agent, except as otherwise provided in section 1704.5. However, neither the statute nor existing regulations prescribe the *method* of filing for notices of appointment of agents and notices of termination of appointment of agents.

COMPARABLE FEDERAL LAW

There are no existing federal regulations and no statutes comparable to the proposed regulations.

POLICY STATEMENT OVERVIEW

Currently, the majority of California insurance companies file notices of appointment of agents and notices of termination of appointment of agents electronically. However, some companies file notices of appointment of agents and notices of termination of appointment of agents by mailing paper forms to the agency. The objective of this proposed regulation is to have all insurance companies submit appointments and terminations electronically, rather than paper filings, for certain licenses in an effort to improve the agency's efficiency in processing notices of appointment and notices of termination of appointment.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Commissioner has determined that the proposed regulation does not impose a mandate on local agencies or school districts. There are no costs to local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO STATE AND LOCAL GOVERNMENT / FEDERAL FUNDING

The Commissioner has determined that there will be no direct or indirect cost or savings to any state agency, local agency or school district and no cost or savings in federal funding to the state as a result of this

regulation. The proposed regulations will not affect small businesses because insurance companies are not, by definition, small businesses.

ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Commissioner has made an initial determination that this proposed regulation will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The Commissioner believes that the proposed regulations will not have a significant cost impact on private persons or businesses directly affected by them. To the extent that the proposed regulations do have an impact on the costs of private persons or businesses directly affected, the cost impact is a result of the Insurance Code sections being implemented, interpreted or made specific by the proposed regulations. The Commissioner invites all interested parties to comment on this issue.

AFFECT ON CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The agency has considered the impact that the proposed regulation may have on business, specifically, on the insurance industry and including the ability of California businesses to compete with businesses in other states.

The agency has determined that the proposed regulation will have no impact on (1) the creation or elimination of jobs within the State of California, (2) the creation of new businesses or the elimination of existing businesses within the State of California or (3) the expansion of businesses currently doing business within the State of California.

For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, the agency will consider any information supplied by interested parties

EFFECT ON HOUSING COSTS

This proposed new regulation would have no effect on housing costs.

ALTERNATIVES

The agency must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the agency's attention, would be more effective in carrying out the

purpose for which the adoption of this regulation is proposed, or would be as effective as and less burdensome to affected private persons than the proposed action.

DEPARTMENT OF INSURANCE CONTACT PERSONS

Inquiries concerning the proposed adoption of this regulation and written comments may be directed to:

Natasha Ray, Sr. Staff Counsel
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3559

or

Keith Kuzmich, Chief Licensing Bureau
300 Capitol Mall, 16th Floor
Sacramento, CA 95814
(916) 492-3511

RECEIPT OF WRITTEN PUBLIC COMMENTS

Any interested person may submit written comments relating to the proposed adoption of this regulation to Natasha R. Ray, Senior Staff Counsel, at the Department of Insurance address set forth above. **The public comment period will close on July 18, 2005.** Statements, arguments or contentions relating to this proposed adoption must be received by the Insurance Commissioner, at either address listed above, no later than 5:00 p.m. on **July 18, 2005** in order to be considered.

Written comments also may be sent via electronic mail to Ms. Ray at rayn@insurance.ca.gov.

Any written materials received after **July 18, 2005** will not be considered by the agency before the adoption of the proposed regulation.

Written comments sent via electronic mail must also be received no later than 5:00 p.m. on **July 18, 2005**.

INITIAL STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared an "Initial Statement of Reasons" (attached) which sets forth the reasons for the proposed adoption of this regulation. The Initial Statement of Reasons and all of the information upon which this proposed new regulation is based, together with the express terms (text) of the proposed regulation will be made available for inspection, or will be provided at no charge, upon request to either of the Department contact persons listed above.

REQUEST FOR PUBLIC HEARING

No public hearing has been scheduled regarding the proposed adoption of this regulation. However, any interested person, or his or her duly authorized representative, may request a public hearing **no later**

than July 5, 2005, by submitting to the agency contact person, set forth above, a **written** request to hold a public hearing.

AVAILABILITY OF CHANGED TEXT

If the regulation adopted by the Department differs from, but is sufficiently related to, the action proposed, the full text of resulting adoption, with the change clearly indicated, will be made available to the public for at least 15 days before the agency adopts, amends or repeals the resulting regulation.

ACCESS TO FINAL STATEMENT OF REASONS

The Final Statement of Reasons, once it has been prepared, may be obtained from Natasha R. Ray, Senior Staff Counsel. Ms. Ray's contact information is listed above.

ELECTRONIC PUBLICATION OF WRITTEN MATERIAL AND AVAILABILITY OF RULEMAKING FILE

This notice, the text of proposed regulation, the initial statement of reasons and the final statement of reasons (once prepared) may also be accessed through the Department's internet website at www.insurance.ca.gov.

All related regulatory documents and information may also be obtained from either contact persons listed above.

Also, upon prior request, the rulemaking file, including reports, documentation, and other materials relating to this proposed regulatory action, will be made available for public inspection at 300 Capitol Mall, 17th floor, Sacramento, CA 95814 between the hours of 9:00 am and 4:30 pm, Monday through Friday.

AUTOMATIC MAILING

A copy of this Notice, including the informative digest, the Initial Statement of Reasons and Text of the Regulation, automatically will be sent to all persons on the Insurance Commissioner's mailing list.

IMPACT ON SMALL BUSINESSES

There is no adverse impact on small businesses. This regulation impacts insurance companies, which are not small businesses.

NON-DISCRETIONARY COSTS OR SAVINGS

The proposal will not impose any non-discretionary cost or savings on local agencies.

TITLE 13. AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ONBOARD DIAGNOSTIC SYSTEM REQUIREMENTS FOR 2010 AND SUBSEQUENT MODEL YEAR HEAVY-DUTY ENGINES (HD OBD)

The Air Resources Board (the “Board” or “ARB”) will conduct a public hearing at the time and place noted below to consider adoption of proposed California OBD requirements for 2010 and subsequent model year heavy-duty engines.

DATE: July 21, 2005

TIME: 9:00 a.m.

PLACE: California Environmental
Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., July 21, 2005, and may continue at 8:30 a.m., July 22, 2005. This item might not be considered until July 22, 2005. Please consult the agenda for the meeting, which will be available at least ten days before July 21, 2005, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

Sections Affected: Proposed adoption of title 13, California Code of Regulations (CCR) section 1971.1—On-Board Diagnostic System Requirements for 2010 and Subsequent Model-Year Heavy-Duty Engines (HD OBD).

DOCUMENTS INCORPORATED BY REFERENCE

International Standards Organization¹ (ISO) 15765-4:2001 “Road Vehicles—Diagnostics on Controller Area Network (CAN)—Part 4: Requirements for emission-related systems,” December 2001.

Society of Automotive Engineers² (SAE) J1930 “Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms—Equivalent to ISO/TR 15031-2:April 30, 2002,” April 2002.

SAE J1939 APR00—“Recommended Practice for a Serial Control and Communications Vehicle Network” and the associated subparts included in SAE HS-1939, “Truck and Bus Control and Communications Network Standards Manual,” 2001 Edition.

SAE J1962 “Diagnostic Connector—Equivalent to ISO/DIS 15031-3: December 14, 2001,” April 2002.

SAE J1978 “OBD II Scan Tool—Equivalent to ISO/DIS 15031-4: December 14, 2001,” April 2002.

SAE J1979 “E/E Diagnostic Test Modes—Equivalent to ISO/DIS 15031-5: April 30, 2002,” April 2002.

SAE J2012 “Diagnostic Trouble Code Definitions—Equivalent to ISO/DIS 15031-6: April 30, 2002,” April 2002.

SAE J2403 “Medium/Heavy-Duty E/E Systems Diagnosis Nomenclature,” August 2004.

BACKGROUND

The Board originally adopted title 13, CCR section 1968.1 in 1989, which required manufacturers to implement second generation on-board diagnostic (OBD II) systems on all 1996 and later model year passenger cars, light-duty trucks, and medium-duty vehicles and engines sold in California. OBD II systems serve an important role in helping to ensure that vehicles maintain low emissions throughout their full life. The regulation specifically requires monitoring of engine misfire, catalysts, oxygen sensors, evaporative systems, fuel systems, and electronic powertrain components, among other components and systems that can affect emissions when malfunctioning. The regulation also requires OBD II systems to provide specific diagnostic information in a standardized format through a standardized serial data link on-board the vehicles. Subsequently, the Board adopted section 1968.2 in 2002, which established OBD II requirements for 2004 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles and engines.

The Board also recently adopted diagnostic system requirements to apply to heavy-duty vehicles (i.e., vehicles with a gross vehicle weight rating (GVWR) greater than 14,000 pounds). Oxides of nitrogen (NOx) and particulate matter (PM) emissions emitted

¹ Copies of ISO documents are available through ISO by mail at Copyright Manager, ISO Central Secretariat, 1 rue de Varembe, 1211 Geneva 20 Switzerland; by phone at +41 22 749 0111; by fax at +41 22 734 1079; or by e-mail at iso@iso.ch.

² Copies of SAE documents are available through SAE by mail at SAE Customer Sales and Support, 400 Commonwealth Drive, Warrendale, PA 15096-0001, U.S.A.; by phone at 1-800-606-7323 (U.S. and Canada only) or 724-776-4970 (outside U.S. and Canada); by fax at 724-776-0790; by e-mail at CustomerService@sae.org; or by website at <http://www.sae.org>.

from heavy-duty trucks, especially diesel trucks, are of great concern, with those from diesel trucks accounting for about 28 percent and 16 percent of the total statewide mobile source NOx and PM emissions, respectively. NOx is a precursor to ozone as well as a lung irritant, while diesel PM is carcinogenic and has been identified as a toxic air contaminant by ARB. While emissions from heavy-duty diesels are of particular concern, emissions from heavy-duty gasoline vehicles are also of concern, given the state's ongoing problem in meeting state and federal ambient air quality standards. Additionally, more stringent emission standards for heavy-duty vehicles will be phased in starting in the 2007–2008 timeframe. There must be some assurance that these standards continue to be met in-use, since emission-related malfunctions can cause vehicle emissions to increase well beyond the standards that they are intended to meet. Thus, the Board adopted section 1971 in 2004, requiring engine manufacturer diagnostic (EMD) systems to be installed on all 2007 and subsequent model year heavy-duty engines. However, the EMD regulation is much less comprehensive than the OBD II regulation applicable to light- and medium-duty vehicles, requiring the monitoring of a few major emission control technologies and containing no standardized requirements. Essentially, the EMD regulation was developed to ensure that all heavy-duty engine manufacturers implement a basic diagnostic system for major emission controls. Accordingly, as the staff had indicated during the EMD rulemaking, it was the intention of ARB to come back in 2005 and adopt more comprehensive diagnostic, testing, and standardization requirements for future heavy-duty engines.

California's problems with ozone pollution continue to be the worst in the nation. In an effort to meet federal and state ambient air quality standards and comply with the federally mandated State Implementation Plan (SIP) to meet those standards, California has continued to be in the forefront in adopting the most stringent motor vehicle emissions control program in the nation. To complement the new emission standards for heavy-duty diesel engines, On-Road Heavy-Duty strategy #5 (previously called measure 17) was included as part of the SIP. This strategy targeted NOx emission reductions from the on-road heavy-duty fleet through improved inspection programs. The proposed OBD regulation is an essential part of this strategy because it can be used in an inspection to easily identify vehicles in need of emission-related repair. Adopting enhanced diagnostic requirements for heavy-duty vehicles is an essential step towards meeting the goals of On-Road Heavy-Duty strategy #5 to reduce emissions from on-road heavy-duty diesels.

STAFF PROPOSAL

As stated above, considering the amount of pollution emitted from heavy-duty vehicles (particularly NOx and PM emissions from diesel vehicles) and the increasingly stringent emission standards being phased in, there must be some assurance that low emissions are maintained in-use.

Staff is proposing the adoption of title 13, CCR section 1971.1 that would require OBD systems to be phased-in starting with 2010 model year on-road heavy-duty engines produced for sale in California with a GVWR greater than 14,000 pounds. As stated above, the OBD systems would be much more comprehensive than the EMD systems. Sufficient leadtime exists to implement the OBD system by the 2010 model year when emission standards become substantially more stringent. The OBD system would help ensure that the engines are able to meet the stringent emission standards and maintain low emissions for the life of the engine. It would accomplish this by monitoring the performance of the emission control components and systems, and by providing technicians with information that would help in diagnosing and fixing malfunctions.

The proposed OBD regulation would require manufacturers to monitor virtually every emission-related component and system on the engine. These include the fuel system, catalyst systems (e.g., oxidation catalysts, selective catalytic reduction systems), exhaust gas recirculation system, particulate matter filter, variable valve timing and/or control system, and electronic engine components (e.g., sensors). Engine manufacturers would be required to indicate a malfunction of these components or systems before emissions exceed a specific threshold (e.g., 1.5 times the standards). For other systems and components, manufacturers would be required to design functional monitors that are capable of detecting malfunctions when the emission system or component is not operating properly. When a malfunction is detected, the proposed regulation would require the OBD system to illuminate a warning light to alert the driver of the problem. Additionally, the proposed regulation would establish standardized requirements defining the content and format of specific diagnostic information required to be output for use by repair technicians.

In addition to monitoring requirements, other provisions being proposed include:

- A standardized methodology for determining the frequency of monitor operation during in-use driving and a minimum operating frequency for most non-continuous monitors (sections 1971.1(d)(3.2) and (d)(4)).
- Standardization requirements for the availability of diagnostic information to assist repair technicians in

effectively diagnosing and repairing vehicles and to assist in roadside inspections (section 1971.1(h)).

- Requirements for demonstration testing of engines to verify compliance with the emission threshold-based monitoring requirements (section 1971.1(i)).
- Requirements that manufacturers submit specified documentation with an application for certifying OBD systems (section 1971.1(j)).
- Deficiency provisions that would provide manufacturers with flexibility to have OBD systems certified even though they are not fully compliant with the requirements of section 1971.1 (section 1971.1(k)).
- Requirements for post-assembly line testing of production engines and vehicles to verify compliance with the requirements of section 1971.1 (section 1971.1(l)).
- Intermediate in-use compliance standards (section 1971.1(m)).

To alleviate engine manufacturers' concerns about workload, the proposed regulation would phase-in the incorporation of OBD systems into heavy-duty engines during the first few years of implementation. Specifically, the proposed requirements would require manufacturers to implement an OBD system on only a single engine family for the 2010 through 2012 model years. During this time, other engine families would continue to follow the EMD requirements of title 13, CCR, section 1971, with one exception. In addition to the other requirements of section 1971, manufacturers would be required to monitor NOx aftertreatment (e.g., NOx adsorber monitoring). (See section 1971.1(d)(7)). Manufacturers would not be required to fully implement the requirements on all engine models until the 2013 model year. This phase-in would allow manufacturers to more effectively use their personnel and testing resources (which are already being stretched to ensure compliance with the 2010 emission standards) and allow them to gain experience on a smaller number of engines prior to wide-scale implementation.

COMPARABLE FEDERAL REGULATIONS

Currently, the United States Environmental Protection Agency (U.S. EPA) has OBD requirements only for light-duty vehicles and trucks and federally defined "heavy-duty" vehicles and engines with a GVWR between 8,500 to 14,000 pounds. These are the same categories of vehicles covered by ARB's OBD II regulations, which apply to light- and medium-duty vehicles (where medium-duty is defined in California as the 8,500 to 14,000 pound GVWR range). However, the U.S. EPA currently does not have OBD requirements for vehicles and engines above 14,000 pounds, which is the weight range for California's "heavy-duty" class. The U.S. EPA staff has indicated

its intent to propose and adopt an OBD regulation for heavy-duty vehicles and engines over 14,000 pounds in the near future, and has indicated a strong interest in developing harmonized ARB and federal OBD programs.

AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal. The report is entitled: Malfunction and Diagnostic System Requirements for 2010 and Subsequent Model Year Heavy-Duty Engines (HD OBD).

Copies of the ISOR and the full text of the proposed regulatory language may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing (July 21, 2005).

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons for this rulemaking: Jason Wong, Air Resources Engineer, at (626) 575-6838 or e-mail jjwong@arb.ca.gov, or Mike McCarthy, Manager, Advanced Engineering Section, Mobile Source Control Division, at (626) 575-6615 or e-mail mmccarth@arb.ca.gov.

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the agency contact persons.

This notice, the ISOR, and subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at:

<http://www.arb.ca.gov/regact/hdobd05/hdobd05.htm>.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily

incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

Pursuant to Government Code section 11346.5(a)(5), the Executive Officer has determined that the proposed regulations will not impose a mandate on local agencies or school districts. The Executive Officer has further determined pursuant to Government Code section 11346.5(a)(6), that the proposed regulatory action will result in some additional costs to ARB and will create minimal costs to all other state agencies that purchase heavy-duty vehicles. In addition, the Executive Officer has determined that the proposed regulatory action will not create costs or savings in federal funding to the state, will create minimal costs to local agencies or school districts in the form of increased vehicle prices for heavy-duty vehicles (>14,000 lbs GVWR), which are not reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, and will not result in other nondiscretionary savings to state or local agencies.

In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons and businesses. Staff determined that any business or individual purchasing a 2010 or subsequent model year heavy-duty vehicle equipped with an OBD system would incur additional costs as a result of this regulation. Specifically, retail costs for new heavy-duty vehicles equipped with an OBD system are expected to increase by \$132 per vehicle (an increase of approximately 0.2% of the retail cost of the vehicle). Further, because OBD systems are expected to detect emission-system and component malfunctions that would not otherwise be detected, the regulation is expected to result in owners and operators having to make additional emission-related repairs. It is expected that that these repairs will result in average costs of approximately \$23 per vehicle, per year (two-thirds of the vehicles are expected to incur one additional repair over the first 21 years of operation at an average repair cost of \$741).

The Executive Officer has made an initial determination, pursuant to Government Code section 11346.5(a)(8), that the adoption of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with business in other states. Support for this determination is set forth in the ISOR.

The Executive Officer has further found, pursuant to Government Code sections 11346.5(a)(10) and 11346.3(b), that the proposed regulation would have minor or no impact on the creation and elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within

California, or the expansion of businesses currently doing business within California. The Executive Officer's determination is based on the following: Heavy-duty vehicle manufacturers, the businesses to which the proposed requirements primarily apply, are located outside of California. Although the proposed requirements have some application to manufacturers of heavy-duty vehicles (assemblers, coach builders, etc.) installed with California-certified heavy-duty engines, the requirements imposed are negligible.

For the engine manufacturers, the costs to comply with the proposed regulatory action are expected to be less than the \$132 retail price increase that was calculated for implementation of the requirements. Manufacturers would incur these costs in the form of additional hardware and software installed on the engine and the testing and development costs to implement the requirements. These costs are expected to be recouped through the anticipated \$132 retail price increase on each engine they sell to heavy-duty vehicle manufacturers. Likewise, the heavy-duty vehicle manufacturers are expected to pass these costs onto purchasers of assembled vehicles.

In developing this regulatory proposal, ARB staff has found that the proposed regulation will pose no adverse economic impact on private persons and businesses as consumers. The \$132 cost increase represents less than a 0.2% increase in the retail price of a heavy-duty vehicle, and the \$23 per engine per year in increased maintenance costs is negligible. Accordingly, the Executive Officer has determined that there will be negligible potential cost impact on representative private persons or businesses as a result of the proposed regulatory action.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the board must determine that no reasonable alternative considered by the board or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be

considered by the Board, written submissions not physically submitted at the hearing must be received by **no later than 12:00 noon, July 20, 2005** and addressed to the following:

Postal Mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 I Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to:

hdbd05@listserv.arb.ca.gov

and received at the ARB **no later than 12:00 noon, July 20, 2005**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, July 20, 2005**.

The Board requests, but does not require, that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of the staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39600, 39601, 43000.5, 43013, 43018, 43100, 43101, 43104, 43105, 43105.5, and 43106. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39010-39060, 39515, 39600, 39601, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43211, and 43212 of the Health and Safety Code.

HEARING PROCEDURES AND AVAILABILITY OF MODIFIED TEXT

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications

clearly indicated, will be made available to the public, for written comment, at least 15-days before it is adopted.

The public may request a copy of the modified regulatory text from the Board's Public Information Office, Air Resources Board, 1001 "I" Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990.

TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at The State Capitol, Room 112, Sacramento, California, 95814 on July 21, 2005. Written comments must be received by the Board of Chiropractic Examiners at 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833-2931, or by fax at 916/263-5369, or by e-mail addressed to dhinchee@chiro.ca.gov, no later than 5:00 p.m. on July 21, 2005, or must be received by the Board at the hearing. The Board of Chiropractic Examiners, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] and to implement, interpret or make specific Section 5 of the Chiropractic Initiative Act [Section 1000-5 of the Business and Professions Code], the Board of Chiropractic Examiners is considering changes to Division 4 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Revise Section 384. Disciplinary Guidelines. Section 4(b) of the Chiropractic Initiative Act [Section 1000-4(b) of the Business and Professions Code] gives the Board the responsibility for implementing regula-

tions they deem necessary for the performance of its work in order to maintain a high standard of professional services and the protection of the public.

The Board's Disciplinary Guidelines is a reference tool intended to assist Board members, Deputy Attorneys General and Administrative Law Judges in imposing appropriate penalties for licensees who have violated the laws and regulations governing the practice of chiropractic. The proposed amendments will streamline and update the document to meet current Board policies pertaining to its enforcement program.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has determined that the proposed regulatory action will not have a significant, statewide economic impact directly affecting California business enterprises and individuals, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board of Chiropractic Examiners has determined that this regulatory proposal will not affect the creation or elimination of jobs, the creation of new businesses or the elimination of existing business, or the expansion of businesses currently doing business, within the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in complying with the proposed amendment.

Housing Costs: The Board has made an initial determination that the proposed regulatory action will not affect housing costs.

Small Business Impact: Because the proposed amendment is directed at individual licensees who violate the law, the proposed amendment will not affect small businesses operating within the law.

CONSIDERATION OF ALTERNATIVES

The Board of Chiropractic Examiners must determine that no alternative which it considered or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Chiropractic Examiners has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

FEDERAL LAW

The proposed amendments do not duplicate or conflict with any federal law.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulation and of the initial statement of reasons and other information, if any, may be obtained at the hearing or prior to the hearing upon request from:

Board of Chiropractic Examiners
David Hinchee, Assistant Executive Director
2525 Natomas Park Drive, Suite 260
Sacramento, CA 95833-2931

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at the above address.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the proposed text of the regulation, and the initial statement of reasons.

CONTACT PERSON

Inquiries concerning the proposed administrative action and inquiries regarding the substance of the proposed regulation may be addressed to David Hinchee at the above address or at 916/263-5355. An alternative contact for information regarding the proposed amendment is Catherine Hayes at the above address or at 916/263-5355.

When prepared, copies of the final statement of reasons will be available from the contacts listed above.

INTERNET ACCESS OF DOCUMENTS

Copies of the documents referred to in this notice are available via internet at www.chiro.ca.gov.

TITLE 16. MEDICAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Medical Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Radisson Hotel, 500 Leisure Lane, Sacramento, California, at 9:00 a.m., on July 29,

2005. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under contact person in this Notice, must be received by the Medical Board of California at its office not later than 5:00 p.m. on July 18, 2005 or must be received by the Medical Board, Division of Licensing at the hearing. The Medical Board of California, Division of Licensing, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 2018 of the Business and Professions Code, and Section 11425.60 of the Government Code, and to implement, interpret or make specific Section 11425.60 of the Government Code, of said Code, the Medical Board of California, Division of Licensing is considering changes to Division 13 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Adopt Title 16, Section 1304.5: Precedent Decisions-Division of Licensing

Existing law permits the Division of Licensing to designate precedent decisions. This proposal would implement that authority by establishing a process (identical to that described by the Division of Medical Quality) for designating precedent decisions.

This proposed regulation will enhance and strengthen the Division's authority by allowing the Division to deem that an administrative decision, or a part of an administrative decision, is a precedent-setting decision. A precedent-setting decision may be utilized by the representatives of the Attorney General's Office, Administrative Office of Hearings, and applicants and their attorneys to help ensure applicants will be treated in a consistent manner.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: None.

Impact on Jobs/New Businesses: The board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Medical Board of California has determined that the proposed regulations would not affect small businesses. This regulation regards precedent decisions regarding license applicants.

CONSIDERATION OF ALTERNATIVES

The Medical Board of California must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Medical Board of California has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the

hearing upon request from the Medical Board of California, Licensing Program at 1428 Howe Avenue, Suite 56, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS
AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries concerning the substance of the proposed regulations may be directed to:

Name: Curt Worden
Address: Medical Board of California
1426 Howe Avenue, Suite 54
Sacramento, CA 95825
Telephone No.: (916) 274-5983
Fax No.: (916) 263-2487
E-Mail Address: cworden@medbd.ca.gov

Inquiries or comments concerning the proposed rulemaking process may be addressed to:

Name: Kevin A. Schunke
Address: Medical Board of California
1430 Howe Avenue, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2368
Fax No.: (916) 263-2387
E-Mail Address: kschunke@medbd.ca.gov

The backup contact person is:

Name: Linda Whitney
Address: Medical Board of California
1430 Howe Avenue, Suite 92
Sacramento, CA 95825
Telephone No.: (916) 263-2389
Fax No.: (916) 263-2387
E-Mail Address: lwhitney@medbd.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.caldocinfo.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

NOTICE OF CONSENT ORDER
WALKER PROPERTY SITE
SANTA FE SPRINGS, CALIFORNIA

The Department of Toxic Substances Control ("DTSC"), pursuant to the authority vested in DTSC under California Health and Safety Code, Sections 25187, 25355.5, 25358.3, 25360, 58009 and 58010, proposes to enter into a Consent Order regarding the Walker Property Site located at Bloomfield Avenue and Lakeland Road in Santa Fe Springs, California ("Site") with Acto Kleen ("Respondent"). This Consent Order is being executed in connection with the Remedial Action performed at the Site by Texaco, Inc. and BC Santa Fe Springs ("Settling Respondents").

Pursuant to the Consent Order, DTSC and the Settling Respondents intend to resolve the claims they may have against the Respondent for recovery of the sums that DTSC and the Settling Respondents have spent and will spend in the course of performing response actions at the site. The Consent Order is intended to obtain settlement with the Respondent for at least its fair share of response costs incurred and to be incurred at or in connection with the Site by DTSC and by private parties, including the Settling Respondents, in exchange for full and complete contribution protection for the Respondent.

DTSC will consider public comments on the Consent Order which are received by DTSC within thirty (30) days of the date of this notice. DTSC may withdraw or withhold consent to the proposed Consent Order, if such comments disclose facts or considerations that indicate the proposed Consent Order is inappropriate, improper and inadequate.

The proposed Consent Order and additional background information relating to the Consent Order are available for public inspection at the Department of Toxic Substances Control, 1011 N. Grandview Avenue, Glendale, California 91201. A copy of the proposed Consent Order may also be obtained by contacting the DTSC representative listed below. DTSC invites any interested persons to submit comments on the Consent Order. Comments must be received by DTSC on or before **July 2, 2005**. The comments should reference the Site name and be directed to:

Mr. Richard Gebert
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

DTSC's responses to any timely comments will be available for inspection at DTSC's office in Glendale, California.

Further information regarding this matter may be obtained by contacting any of the following persons: DTSC Project Manager Richard Gebert at (818) 551-2859 or DTSC Staff Counsel Robert Elliott at (916) 327-6105.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

NOTICE OF CONSENT ORDER WALKER PROPERTY SITE SANTA FE SPRINGS, CALIFORNIA

The Department of Toxic Substances Control ("DTSC"), pursuant to the authority vested in DTSC under California Health and Safety Code, Sections 25187, 25355.5, 25358.3, 25360, 58009 and 58010, proposes to enter into a Consent Order regarding the Walker Property Site located at Bloomfield Avenue and Lakeland Road in Santa Fe Springs, California ("Site") with Northrop Grumman Corporation, on behalf of its subsidiary Lucas Western LLC ("Respondent"). This Consent Order is being executed in connection with the Remedial Action performed at the Site by Texaco, Inc. and BC Santa Fe Springs ("Settling Respondents").

Pursuant to the Consent Order, DTSC and the Settling Respondents intend to resolve the claims they may have against the Respondent for recovery of the sums that DTSC and the Settling Respondents have spent and will spend in the course of performing response actions at the site. The Consent Order is intended to obtain settlement with the Respondent for at least its fair share of response costs incurred and to be incurred at or in connection with the Site by DTSC and by private parties, including the Settling Respondents, in exchange for full and complete contribution protection for the Respondent.

DTSC will consider public comments on the Consent Order which are received by DTSC within thirty (30) days of the date of this notice. DTSC may withdraw or withhold consent to the proposed Consent Order, if such comments disclose facts or considerations that indicate the proposed Consent Order is inappropriate, improper and inadequate.

The proposed Consent Order and additional background information relating to the Consent Order are available for public inspection at the Department of Toxic Substances Control, 1011 N. Grandview Avenue, Glendale, California 91201. A copy of the

proposed Consent Order may also be obtained by contacting the DTSC representative listed below. DTSC invites any interested persons to submit comments on the Consent Order. Comments must be received by DTSC on or before **July 2, 2005**. The comments should reference the Site name and be directed to:

Mr. Richard Gebert
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

DTSC's responses to any timely comments will be available for inspection at DTSC's office in Glendale, California.

Further information regarding this matter may be obtained by contacting any of the following persons: DTSC Project Manager Richard Gebert at (818) 551-2859 or DTSC Staff Counsel Robert Elliott at (916) 327-6105.

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

NOTICE TO INTERESTED PARTIES

Extension of Public Comment Period

DRAFT HEALTH ADVISORY: FISH CONSUMPTION GUIDELINES FOR TRINITY LAKE AND SELECTED WATER BODIES IN THE TRINITY RIVER WATERSHED (TRINITY COUNTY)

On April 8th, 2005 the Office of Environmental Health Hazard Assessment (OEHHA) announced a May 3, 2005 public workshop to seek public comments on the Draft Fish Consumption Guidelines for Trinity Lake and Selected Water Bodies in the Trinity River Watershed. Comments on the document were to be received by May 9, 2005. At the request of several interested parties during and subsequent to the workshop, **OEHHA is announcing the extension of the comment period for this document to June 30, 2005**. Any written statements **must be received by OEHHA no later than 5:00 p.m. on Thursday, June 30, 2005** to be considered.

Comments on the draft report may be submitted by phone, fax, or e-mail to Dr. Robert K. Brodberg. All comments must be received by 5:00 p.m. on June 30, 2005. OEHHA will consider comments received by this time and revise the draft report and advisory as appropriate.

OEHHA is making the draft document available at the OEHHA Web site at <http://www.oehha.ca.gov>. A copy of the report is also available by calling (916) 327-7319.

If you would like to submit comments, receive further information on this announcement, or have questions, please contact Dr. Robert K. Brodberg using the information provided below.

Dr. Robert K. Brodberg
California Environmental Protection Agency
Office of Environmental Health Hazard Assessment
Pesticide and Environmental Toxicology Section
P.O. Box 4010
Sacramento, California 95812-4010
Phone: (916) 323-4763
Fax: (916) 327-7320
e-mail: rbrodber@oehha.ca.gov

DECISION NOT TO PROCEED

FISH AND GAME COMMISSION

NOTICE OF DECISION NOT TO PROCEED
PURSUANT TO GOVERNMENT CODE 11347,
NOTICE IS HEREBY GIVEN that the Fish and Game Commission, at the request of the Department of Fish and Game, decided not to proceed with the amendment of subsection (b)(178) of Section 7.50, Title 14, California Code of Regulations, regarding Silver King Creek Angling Regulations, Notice File Number Z-04-0511-03, which was published May 21, 2004 in California Notice Register 2004, No. 21-Z, pages 670-671.

RULEMAKING PETITION DECISIONS

DEPARTMENT OF HEALTH SERVICES

April 26, 2005

Mr. Carl London
Rose and Kindel
915 L Street, Suite 1210
Sacramento, CA 95814

Dr. Bill Safarjan, Ph.D.
Psychology Shield
Attn: Michele Licht, Esq.
5440 Roundmeadow Road
Hidden Hills, CA 91302

PETITION FOR AMENDMENT OF REGULATIONS

Dear Mr. London and Dr. Safarjan:

This letter is the response by the Department of Health Services (Department) to your petition for regulation changes which originated with your letter of November 8, 2004. The Department appreciates your patience while your proposed changes have been under review.

After review of your requested changes, the Department has been able to group the regulations into roughly four groups. These groups are (1) the regulations which the Department proposes to change just as you have requested; (2) the regulations which the Department believes no longer need to be changed due to the previous Section 100 regulation changes; (3) the regulations which the Department agrees need to be changed, but for which the Department proposes to use broader language than what you have recommended; and (4) the remaining regulations, for which the requested changes are denied for various specific reasons as listed in this letter.

Because the Department has treated your request as a petition for a regulation change, it is required to either grant or deny each of your requests in the form and exact wording in which you made it. Therefore, the Department is granting the petition for the first regulation group, but denying the others. However, the Department remains open to further input as the proposed regulations package is being developed, and we will consider additional information that you may wish to submit regarding the necessity for and appropriateness of the changes being denied in this letter.

The Department is authorized to adopt, amend or repeal regulations in these categories, pursuant to Health and Safety Code sections 1275 and 100275.

The changes that you have proposed to the following regulations are granted; the Department will propose the regulatory changes as requested in your petition:

70577(d)(2), 70577(f), 70703(f), 71203(b), 71205(d)(1), 71551(a), 71551(h), 72319(l)(2), 72319(k)(1), 72453(b), 72543(a), 72547(a)(4) and (a)(12) [with style or grammar corrections], 73089, 73315(l), 73449(b)(1), and 73519(a)(1).

The proposed regulation changes in the second group relate to an issue already addressed in the earlier Section 100 regulation package and are, therefore, denied.

70577(e)(1), 70577(j)(2), 71203(a)(3)(B) and (C), 71517(b), 71517(e), and 71545(b).

For this third group of proposed regulation changes, the Department agrees that changes are needed. However, the Department has decided to take this opportunity to use more all-inclusive language to avoid intruding into the area of scope of practice regulation, which is beyond the authority of this

Department. Therefore, the specific changes that you have requested for the following regulations are denied.

70577(k)(2), 70706(b), 70707(b)(3), 70707(b)(10), 70707(b)(12), 70749(a)(1)(K), 70751(a)(1), 70751(g), 70753, 71507(b), 72109, 72319(b), 72413(a), 72413(b)(1) and (2), 72423(a), 72433(b)(2) and (4), 72461(a), 72471(c), 72515(a), 72525(c)(1)(F)(1) and (2), 72525(c)(1)(G)(1) and (2), 72528, 73077(a), 73303(a), 73305, 73311(b) and (c), 73313(j), 73315(a), 73329; 73409(a), 73449(b)(4), 73469(b)(1), 73479(a), 73489(a), 73517(a)(1) and (3), 73519(b)(5), 73519(f)(1) and (2), 73519(g)(2), 73523(a)(19), 73523(c), 73524(a), 73524(e), 73524(f)(2), 73524(g), 73543(a), 73547(a)(5)(E), 73547(a)(11), 79637(a), 79637(h)(1), and 79689(a).

The fourth group of proposed regulation changes cannot be granted for a variety of reasons, specific to the individual regulations. The Department may continue to work on these regulations, but the specific changes that you have proposed in the following regulations are denied.

70101(c), 70101(g), 70577(d)(3), 70579(a), 70703(a)(1), 70703(a)(2), 70706.2(b)(8), 71005, 71011, 71101, 71203(a)(1)(A), 71203(a)(1)(B), 71205(b)(1), 71205(b)(2), 71205(c)(1), 71517(a), 71517(f), 71551(g), 72303, 72303(a), 72303(b)(1)–(7), 72305(a), 72305(b), 72305(b)(1), 72307(a) and (b), 72520(a)(3), 72525(c)(1)(A) and (B), 72525(c)(2)(B), 72525(c)(3)(B), 73085 (Title) and (b), 73301, 73301(d), 73315(g) and (h), 73325(a), 73331, 73521, 73523(a)(3), 73523(a)(6), 73523(a)(23), 73523(e)(1), 73524(b) and (c), 79561(b) and (c), 79599, 79601(a)(1), (2), (6) and (7), 79603(a)(1) and (7), 79603(b), 79781(d)(1)(G), 79781(d)(2)(B), 79781(d)(3)(B), 79801(a), 79801(b), 79801(c), and 79801(h).

Section 70101(c) restates Health & Safety Code section 1279. “Psychologist” does not appear in section 1279, and, therefore, is not authorized to be added to section 70101(c). Generally, regulations which simply restate statutes are unnecessary and should be repealed.

Section 70101(g) restates Health & Safety Code section 1282. “[T]he California Psychological Association” does not appear in section 1282, and, therefore, is not authorized to be added to section 70101(g). Generally, regulations which simply restate statutes are unnecessary and should be repealed.

Section 70577(d)(3). The scope of practice of a psychologist is not wide enough to enable him or her to handle the full range of psychiatric emergencies.

Section 70579(a). The reason for this proposed change is unclear, and the Department is not persuaded that the requested change is necessary or appropriate.

Section 70703(a)(1)–(2). These proposed changes exceed the authority of Health & Safety Code 1316.5. The law does not require hospitals that are not owned and operated by the state to include psychologists as part of the medical staff.

Section 70706.2(b)(8). The specialized circumstances resulting in notification need to be specified. Further, more all-inclusive language must be used to avoid intruding into the area of scope of practice regulation, which is beyond the authority of this Department.

Section 71005 restates Health & Safety Code section 1250(b). “Psychological” does not appear in section 1250(b), and, therefore, is not authorized to be added to section 71005. Generally, regulations which simply restate statutes are unnecessary and should be repealed.

Section 71011 would require a new basic service and add significant new licensing requirements beyond the authority of section Health & Safety Code 1250(b).

Section 71101 restates Health & Safety Code section 1279. “Psychologist” does not appear in section 1279, and, therefore, is not authorized to be added to section 71101. Generally, regulations that simply restate statutes are unnecessary and should be repealed.

Section 71203(a)(1)(A), 73301(d). Since clinical psychologist is defined in Health & Safety Code 1316.5, allowing “clinical” to remain clarifies that psychologists without required clinical experience are not eligible to treat patients.

Section 71203(a)(1)(B). The scope of practice of a psychologist is not wide enough to enable him or her to handle the full range of psychiatric emergencies.

Section 71205(b)(1). Some elements within the full scope of the psychiatric component are outside the scope of practice of psychologists.

Section 71205(b)(2). This regulation uses the term “sufficient,” and while that term was obviously accepted by the Office of Administrative Law in the past, the Department believes the regulation would need to be rewritten to define what “sufficient” means for the regulation to be approved under today’s standards.

Section 71205(c)(1). The Department will use language consistent with section 70577(e).

Section 71517(a). The Department agrees that non-discrimination should be part of a hospital’s policies and procedures, but the Department would prefer different language.

Section 71517(f). Proposed change is improper use of “oneself.”

Section 71551(g). All clinicians should complete the record within two weeks, whether they are on staff or not.

Sections 72303, 72305, and 72307. Psychologist services are not appropriate under the heading of Physician Services. Separate regulations or reorganized regulations are more appropriate.

Section 72520(a)(3). Additional research must be done to determine the impact, if any, on Medi-Cal bed-hold payments. Further, more all-inclusive language must be used to avoid intruding into the area of scope of practice regulation, which is beyond the authority of this Department.

Section 72525(c). Since skilled nursing facilities are not required to provide psychological services, they should not be forced to establish policies and have psychologists on committees if they do not provide psychological services.

Section 73085. Clinician definition should be in its own separate section and should not be commingled with the definition of "physician."

Section 73301. This proposed change exceeds the authority of Health & Safety Code 1316.5. The Department cannot require non-state-owned and -operated health facilities to include psychologist services as part of the required services.

Section 73331. Ordering of special therapeutic diets may need to be limited. Further, more all-inclusive language must be used to avoid intruding into the area of scope of practice regulation, which is beyond the authority of this Department.

Section 73521. This proposed change exceeds the authority of Health & Safety Code 1316.5. The law does not require health facilities not owned and operated by the state to include psychologist services in patient care policies or psychologists on the Patient Care Policy Committee.

Section 73523(a)(3). This proposed change may change and limit a patient's right to his or her total information. Further, if a change were to be made, more all-inclusive language would need to be used to avoid intruding into the area of scope of practice regulation, which is beyond the authority of this Department.

Section 73523(a)(6). "Mental health reasons" appear to be already included in "patient's welfare", so that the change is unnecessary.

Section 73523(a)(23) and (e)(1), 73524(b) and (c). The differences in meaning among "psychotropic", "psychotherapeutic" and "psychoactive" are not clear, and the Department is not persuaded that "psychotropic" should be the chosen term.

Section 79561(b) & (c), 79599, 79601, 79603. Regulations should not be commingled with those applicable to physicians. These changes are more appropriate to sections 79509 and 79611. Otherwise, this causes duplication and clarity issues.

Sections 79781(d)(2)(B) and 79781(d)(3)(B). These changes would exceed the requirements of Health and

Safety Code section 1316.5. Not all correctional treatment centers are owned and operated by the state, and the law does not require health facilities not owned and operated by the state to appoint clinical psychologists to their medical staffs.

Section 79781(d)(1)(G). The Department is not persuaded that the requested change is necessary or appropriate, since the regulation addresses medical care.

Section 79801(a). It is unclear to the Department how "health administration" is different from "administration."

Section 79801(b). Since clinical psychologist is defined in Health & Safety Code 1316.5, allowing "clinical" to remain clarifies that psychologists without required clinical experience are not eligible to treat patients. The second proposed change may be unnecessary.

Section 79801(c). The Department believes this change would be an unnecessary dilution of access to physician's care.

Section 79801(h). Since clinical psychologist is defined in Health & Safety Code 1316.5, allowing "clinical" to remain clarifies that psychologists without required clinical experience are not eligible to treat patients. The second proposed change may be unnecessary.

After you have had an opportunity to review this response, you may contact Gina Henning, R.N. of my staff, at 916 552 9370, with any questions or comments you may have. Thank you again for your patient assistance in this process.

Sincerely,

Brenda G. Klutz
Deputy Director
Licensing and Certification Program

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

DEPARTMENT OF DEVELOPMENTAL SERVICES

Vouchered Respite

This Certificate of Compliance permits a service provider to receive a voucher for the costs of respite care. (Previous OAL file ## 04-0817-01E and 04-1216-01EE)

Title 17

California Code of Regulations

AMEND: 50604, 50605, 54310, 54320, 54326, 54332, 54335

Filed 05/18/05

Effective 05/18/05

Agency Contact: Lisa Primeaux (916) 654-2199

DEPARTMENT OF FOOD AND AGRICULTURE

Chrysanthemum White Rust Disease Eradication Area

This regulatory action amends Section 3636 of Title 3 to add Santa Barbara to the eradication area for Chrysanthemum White Rust Disease and permit the use of steam treatment and the establishment of host-free periods within the eradication area.

Title 3

California Code of Regulations

AMEND: 3636(a)(c)

Filed 05/23/05

Effective 05/23/05

Agency Contact: Stephen Brown (916) 654-1017

OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Pink Shrimp Trawling

Conveyors

This is a nonsubstantive change making an editorial correction to a typo.

Title 8

California Code of Regulations

AMEND: 3999

Filed 05/24/05

Effective 05/24/05

Agency Contact: Marley Hart (916) 274-5721

STATE ALLOCATION BOARD

Leroy F. Greene School Facilities Act of 1998—SPF Joint Use Program

This emergency regulatory action amends the School Facility Joint-Use Program to clarify several provisions.

Title 2

California Code of Regulations

ADOPT: 1859.23 AMEND: 1859.2, 1859.122, 1859.123, 1859.123.1

Filed 05/24/05

Effective 05/24/05

Agency Contact: Robert Young (916) 445-0083

**STATE WATER RESOURCES CONTROL BOARD
Los Angeles Water Quality Control Board**

State Water Resources Control Board Resolution No. 2005-0015, adopted on January 20, 2005, amended the Water Quality Control Plan for the Los Angeles Region by: (1) dedesignating Water Contact Recreation (REC-1) associated with swimming-related activities as a potential use from “Ballona Creek” (Reach 1) and “Ballona Creek to Estuary” (Reach 2); (2) designating Limited Water Contact Recreation (LREC-1) as an existing use for Reach 2; (4) clarifying the dividing line between Reach 1 and Reach 2; and (5) adding water quality objectives for bacteria that apply to LREC-1, including geometric mean and single sample limits for E-coli and fecal coliform.

Title 23

California Code of Regulations

ADOPT: 3939.14

Filed 05/23/05

Effective 05/23/05

Agency Contact: Sheila Vassey (916) 341-5173

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN JANUARY 5, 2005
TO MAY 25, 2005**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation’s titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

05/24/05 ADOPT: 1859.23 AMEND: 1859.2, 1859.122, 1859.123, 1859.123.1

05/12/05 ADOPT: 1859.71.4, 1859.78.1 AMEND: 1859.2, 1859.73.2, 1859.79.2, 1859.82, 1859.83, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.164.2

05/03/05 ADOPT: 20800.1, 20800.2, 20800.3, 20800.4, 20800.5, 20800.6, 20800.7, 20800.8, 20800.9, 20801.1, 20801.2, 20801.3 AMEND: 20800, 20801, 20802

05/02/05 ADOPT: 18640 AMEND: 18941.1, 18946, 18946.1, 18946.2, 18946.4

04/26/05 AMEND: 1859.2, 1859.42

04/19/05 AMEND: 172.4, 172.5, 172.6, 172.7, 172.8, 172.9, 172.10

03/21/05 AMEND: 549.70, 549.71, 549.72, 549.74

03/02/05 AMEND: 1859.73.2, 1859.145.1

02/28/05 AMEND: 1859.2

02/28/05 AMEND: 1859.71.3, 1859.78.5
 02/28/05 AMEND: 1859.2
 02/24/05 AMEND: 211
 02/23/05 ADOPT: 1859.90.1 AMEND: 1859.2
 02/15/05 AMEND: 1859.81
 02/03/05 AMEND: 1859.106
 02/03/05 ADOPT: 1859.78.8 AMEND: 1859.2,
 1859.60, 1859.61, 1859.78.6
 01/31/05 AMEND: 1859.2, 1589.33, 1859.35,
 1859.77.3, 1859.82, 1859.83
 01/26/05 ADOPT: 20107

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05/23/05 AMEND: 3636(a)(c)
 05/16/05 AMEND: 6388
 05/09/05 ADOPT: 1392.2(t), 1392.4(h), 1392.4(i),
 1392.4(j), 1392.9(c), 1392.9(d),
 04/15/05 AMEND: 1446.9(c), 1454.16(c)
 04/04/05 AMEND: 6400
 03/07/05 ADOPT: 1392.8.1(3) AMEND:
 1392.8.1.(2)
 03/01/05 ADOPT: 796, 796.1, 796.2, 796.3, 796.4,
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 795.19, 795.30, 795.32, 795.33, 795.50
 02/28/05 AMEND: 3430(b)
 02/24/05 AMEND: 1280.2
 02/23/05 AMEND: 3423(b)
 02/15/05 ADOPT: 4603(g)
 02/02/05 AMEND: 3430(b)
 01/21/05 AMEND: 3700 (b)(c)
 01/21/05 ADOPT: 3700
 01/14/05 AMEND: 3700(c)
 01/13/05 AMEND: 3962(a)

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04/27/05 AMEND: 1844, 1845
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 03/22/05 AMEND: 12250, 12270, 12271, 12272
 02/28/05 AMEND: 2424
 02/11/05 ADOPT: 7030, 7031, 7032, 7033, 7034,
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 02/04/05 AMEND: 1371
 01/28/05 ADOPT: 12270, 12271, 12272

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 05/06/05 ADOPT: 19850, 19851, 19852, 19853,
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05/06/05 ADOPT: 3075.1, 13075.2, 13075.3,
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 05/06/05 ADOPT: 18092.5 AMEND: 18066,
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 04/14/05 AMEND: 19836
 03/24/05 ADOPT: 80307 AMEND: 80300, 80303,
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 03/21/05 AMEND: 19828.1
 03/02/05 AMEND: 55607, 59509 REPEAL: 55310
 02/10/05 ADOPT: 19817.1, 19826.1, 19828.1,
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 01/31/05 AMEND: 80048.3, 80457, 80523.1 RE-
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 01/19/05 ADOPT: 19814.1, 19832, 19833, 19834,
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 01/10/05 ADOPT: 3088.1, 3088.2

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05/24/05 AMEND: 3999
 05/12/05 AMEND: 9789.11
 04/29/05 AMEND: 3456
 04/28/05 AMEND: 1637
 04/19/05 REPEAL: 16003
 04/14/05 AMEND: 8354, 8397.10, 8397.11,
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 04/06/05 ADOPT: 9792.6, 9792.7, 9792.8, 9792.9,
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 04/06/05 AMEND: 230.2
 03/16/05 AMEND: 344.30
 03/08/05 AMEND: 15220, 15220.1, 15220.3,
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 03/07/05 AMEND: 5144
 02/28/05 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,
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 02/04/05 AMEND: 5146
 01/26/05 AMEND: 3456
 01/26/05 AMEND: 5144
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03/25/05 ADOPT: 13000, 13005, 13010, 13015,
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 01/25/05 AMEND: 9525

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05/05/05 ADOPT: 2805, 2805.5, 2805.9, 2805.11,
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04/01/05 AMEND: 260.140.72, 260.140.72.1,
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04/01/05 ADOPT: 2218.60, 2218.61, 2218.62,
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03/25/05 AMEND: 1556

03/17/05 ADOPT: 2712 AMEND: 2835, 2840,
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03/02/05 AMEND: 2318.6, 2353.1, 2354

02/09/05 AMEND: 260.165

01/14/05 AMEND: 2498.6

01/07/05 ADOPT: 2699.6608 AMEND: 2699.100,
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05/11/05 ADOPT: 61.9

05/09/05 ADOPT: 28.4

05/04/05 AMEND: 51.7

05/04/05 AMEND: 51.2

05/04/05 ADOPT: 61.8

05/04/05 ADOPT: 51.25

05/04/05 ADOPT: 51.23

05/03/05 AMEND: 51.12

05/03/05 AMEND: 51.15

05/03/05 AMEND: 51.14

05/03/05 AMEND: 51.24

03/30/05 AMEND: 970, 970.1, 971., 972, 972.1,
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03/30/05 ADOPT: 2037, 2038 AMEND: 2010,
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03/15/05 ADOPT: 996

02/18/05 AMEND: 63.5

02/16/05 AMEND: 995.5

01/26/05 AMEND: 1080

01/19/05 ADOPT: 968.97, 968.99 AMEND:
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01/05/05 ADOPT: 51.22

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02/16/05 AMEND: 503(f)

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05/03/05 ADOPT: 159.10

03/30/05 AMEND: 25.15, 25.18, 25.19, 25.22

03/21/05 ADOPT: 2011 AMEND: 2180.1, 2181,
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03/10/05 AMEND: 2260, 2262, 2262.4, 2262.5,
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02/22/05 AMEND: 220.04, 220.12, 221.12

02/08/05 AMEND: 330.32

02/02/05 AMEND: 124.92, 124.93

01/31/05 AMEND: 1956.1, 1956.2, 1956.3, 1956.4

01/27/05 ADOPT: 2485

01/26/05 ADOPT: 15.07

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05/12/05 AMEND: 120.01

05/12/05 AMEND: 180.3

05/11/05 AMEND: 601

05/11/05 AMEND: 180.15

05/11/05 AMEND: 231

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05/11/05 AMEND: 150.03

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04/25/05 ADOPT: 18456.2.1, 18460.2.1 AMEND:
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04/25/05 AMEND: 851.23

04/22/05 AMEND: 149.1

04/19/05 AMEND: 670.2

04/13/05 AMEND: 2030, 2305, 2310, 2505, 2960

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04/07/05 ADOPT: 1.71 AMEND: 2.09, 2.10, 5.00

04/04/05 AMEND: 119900

03/30/05 AMEND: 825.03, 825.05, 826.01,
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03/30/05 AMEND: 852, 852.2, 852.3

03/28/05 ADOPT: 53.00, 53.01, 53.02, 53.03,
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03/25/05 ADOPT: 745.5 AMEND: 746

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03/08/05 AMEND: 29.05, 29.40, 30.00, 120.7,
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03/01/05 AMEND: 52.10, 150.16
02/28/05 AMEND: 670.5
02/28/05 ADOPT: 125
02/22/05 ADOPT: 1052.4 AMEND: 895.1, 1052,
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01/28/05 ADOPT: 3806.3, 3806.5
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01/10/05 ADOPT: 800.6 AMEND: 800, 800.5,
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01/07/05 ADOPT: 1038(i) AMEND: 1038(e)

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03/01/05 ADOPT: 3999.1.8, 3999.1.9, 3999.1.10,
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01/06/05 AMEND: 2000, 2400, 2403

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04/21/05 AMEND: 1398.38
04/14/05 AMEND: 54.1, 54.2
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03/17/05 ADOPT: 869.1, 869.2, 869.3, 869.4,
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03/16/05 ADOPT: 4160, 4161, 4162, 4163
03/08/05 ADOPT: 2624.1 AMEND: 2604, 2615,
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03/07/05 ADOPT: 1358.1
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03/30/05 ADOPT: 54351, 58800, 58811, 58812,
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05/04/05 AMEND: 6001
04/29/05 ADOPT: 4056.1
04/07/05 AMEND: 1703
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03/18/05 AMEND: 1566
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03/01/05 AMEND: 2703(d), 2705(b), 2705 (Emergency Release Follow-Up Notice Reporting Form Instructions)

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03/16/05 AMEND: 1601, 1602, 1603, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608

03/07/05 ADOPT: 2.3.1 AMEND: 8.2

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04/21/05 AMEND: Appendix

04/11/05 AMEND: 111430

04/11/05 AMEND: 66260.201

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03/23/05 ADOPT: 96000, 96005, 96010, 96015, 96020, 96025

03/23/05 ADOPT: 50960.2, 50960.4, 50960.9, 50960.12, 50960.15, 50960.21, 50960.23, 50960.26, 50960.29, 50960.32, 50960.36, 50961, 50965 AMEND: 50962, 50963, 50964 REPEAL: 50960, 50961

03/14/05 AMEND: 926.3, 926.4, 926.5

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05/17/05 AMEND: 645

03/28/05 AMEND: 2611

03/11/05 ADOPT: 3944.1

02/08/05 ADOPT: 3939.12

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04/07/05 AMEND: 6935, 6935.2

02/02/05 ADOPT: 1338.1, 1443.1 AMEND: 1338

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04/22/05 AMEND: 42-101

02/16/05 ADOPT: 31-503 AMEND: 31-206, 45-201

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